



February 3, 1999

SENATE BILL No. 67

DIGEST OF SB 67 (Updated February 2, 1999 11:10 a.m.) - DI KCC)

Citations Affected: IC 36-8; noncode.

Synopsis: Surviving spouse benefits. Increases the minimum survivor's benefit for surviving spouses of deceased members of the 1925 police pension fund, the 1937 firefighters' pension fund, and the 1953 police pension fund. Provides that the minimum survivor's benefit is increased over four years from 30% of the salary of a first class officer to 50% of the salary of a first class officer.

Effective: January 1, 2000.

Server

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.
February 2, 1999, amended; reassigned to Committee on Pensions and Labor.

SB 67—LS 6141/DI 13+



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February 3, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 67

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-6-9.8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9.8. (a) Benefits
3 paid under this section are subject to section 1.5 of this chapter.

4 (b) The 1925 fund shall be used to pay funeral benefits to the heirs
5 or estate of an active or a retired member of the police department who
6 has died from any cause, in an amount fixed by ordinance, but at least:

7 (1) one thousand five hundred dollars (\$1,500) for a member who
8 dies before September 1, 1984;

9 (2) three thousand dollars (\$3,000) for a member who dies after
10 August 31, 1984, and before July 1, 1994;

11 (3) six thousand dollars (\$6,000) for a member who dies after
12 June 30, 1994, and before January 1, 1999; and

13 (4) nine thousand dollars (\$9,000) for a member who dies after
14 December 31, 1998.

15 (c) In addition, a payment shall be made to the surviving spouse of
16 a deceased member, in an amount fixed by ordinance, but at least the
17 following:

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(1) To the surviving spouse of a member who dies before January 1, 1989, an amount equal to: ~~thirty~~

(A) **thirty-five percent (35%)** of the monthly pay of a first class patrolman per month, **for amounts paid after December 31, 1999, and before January 1, 2001;**

(B) **forty percent (40%)** of the monthly pay of a first class patrolman per month, **for amounts paid after December 31, 2000, and before January 1, 2002;**

(C) **forty-five percent (45%)** of the monthly pay of a first class patrolman per month, **for amounts paid after December 31, 2001, and before January 1, 2003; and**

(D) **fifty percent (50%)** of the monthly pay of a first class patrolman per month, **for amounts paid after December 31, 2002;**

during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) To the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of **the following:**

(A) ~~thirty~~ **The following percentage of the monthly pay of a first class patrolman:**

(i) **Thirty-five percent (35%)** of the monthly pay of a first class patrolman, **or for amounts paid after December 31, 1999, and before January 1, 2001.**

(ii) **Forty percent (40%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2000, and before January 1, 2002.**

(iii) **Forty-five percent (45%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2001, and before January 1, 2003.**

(iv) **Fifty percent (50%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2002.**

(B) **Fifty-five percent (55%)** of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause



(B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided for in this subdivision is subject to adjustment as provided in subsection (f).

(d) A payment shall also be made to each child of a deceased member under the age of eighteen (18) years, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

(1) until the child reaches the age of eighteen (18);

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (c) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (d) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of his death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances makes this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

SECTION 2. IC 36-8-7-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) The sum that shall be paid to permanently disabled members and to the surviving spouses, children, and parents of deceased members is as follows:

(1) Upon retirement with disability during service, a member is



entitled to receive in monthly installments an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(2) If a member dies while in active service or after retirement:

(A) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:

(i) for the surviving spouse of a member who dies before January 1, 1989, ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension, **for amounts paid after December 31, 1999, and before January 1, 2001; forty percent (40%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension, for amounts paid after December 31, 2000, and before January 1, 2002; forty-five percent (45%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension, for amounts paid after December 31, 2001, and before January 1, 2003; and fifty percent (50%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension, for amounts paid after December 31, 2002; and**

(ii) for the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the monthly pay of a first class firefighter, **for amounts paid after December 31, 1999, and before January 1, 2001; forty percent (40%) of the monthly pay of a first class firefighter, for amounts paid after December 31, 2000, and before January 1, 2002; forty-five percent (45%) of the monthly pay of a first class firefighter, for amounts paid after December 31, 2001, and before January 1, 2003; and fifty percent (50%) of the monthly pay of a first class firefighter, for amounts paid after December 31, 2002; or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased). However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the**



purposes of computing the second amount under this item, the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(B) the member's children who are:

(i) under eighteen (18) years of age; or
 (ii) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university; are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(C) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(3) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to an additional monthly benefit, during the spouse's lifetime, equal to the difference between the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter and the amount received by the spouse under subdivision (2)(A). If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. The children of a spouse receiving benefits under this subdivision may not receive more than a total of thirty percent (30%) of the monthly wage received by a fully paid first class firefighter. However, this limitation does not apply to the children of a spouse receiving benefits under this subdivision who are physically or mentally disabled. For purposes of this subdivision, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a firefighter, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically

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incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B)(ii), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(c) A member who has been in service twenty (20) years, upon making a written application to the fire chief, may be retired from all service with the department without a medical examination or disability. Except as provided in subsection (g), the local board shall authorize the payment to the retired member of fifty percent (50%) of the salary of a fully paid first class firefighter of the unit at the time of the payment of the pension, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of service; over twenty (20) years. However, the pension in one (1) year may not exceed an amount greater than seventy-four percent (74%) of the salary of a fully paid first class firefighter. The pension of the dependents of retired members is the same if the member dies after retirement as it is for dependents of members who die in the service or after retirement with disability.

(d) A member who is discharged from the fire department after having served at least twenty (20) years is entitled to receive the amount equal to the amount that the member would have received if the member retired voluntarily. If a member dies after retirement and leaves a surviving spouse or dependent child or children, they are entitled to receive the amount provided for the dependents of members who have died in the service of the fire department.

(e) All pensions in a class are on an equal basis. The local board may not depart from this chapter in authorizing the payment of pensions.

(f) The monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) The monthly pension payable to a member who is transferred from disability to regular retirement status may not be reduced below fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.



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(h) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 3. IC 36-8-7.5-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay to the beneficiary or estate of a member of the fund, active or retired, who:

(1) dies from any cause after having served for one (1) year or more as an active member of the police department; or

(2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department;

fifteen hundred dollars (\$1,500) for a member who died before September 1, 1984, three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994, six thousand dollars (\$6,000) for a member who dies after June 30, 1994, and before January 1, 1999, and nine thousand dollars (\$9,000) for a member who dies after December 31, 1998. Any member of the fund may name a beneficiary to receive the amount provided for upon his death by designating in writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.

(c) In addition, the 1953 fund shall be used to pay an annuity, computed under subsection (h) and payable in monthly installments, to the surviving spouse of a member of the fund who:

(1) dies from any cause after having served for one (1) year or more; or

(2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department died in the line of duty and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of



the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department or dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department. The pension to each child continues:

- (1) until the child attains the age of eighteen (18) years;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (d) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who:

- (1) dies from any cause after having served for one (1) year or more as an active member of the police department; or
- (2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.



(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

(h) The annuity payable under subsection (c) equals one (1) of the following:

(1) For the surviving spouse of a member who dies before January 1, 1989, ~~thirty an amount equal to the following:~~

(A) **Thirty-five percent (30%) (35%)** of the salary of a first class patrolman, **for amounts paid after December 31, 1999, and before January 1, 2001.**

(B) **Forty percent (40%)** of the salary of a first class patrolman, **for amounts paid after December 31, 2000, and before January 1, 2002.**

(C) **Forty-five percent (45%)** of the salary of a first class patrolman, **for amounts paid after December 31, 2001, and before January 1, 2003.**

(D) **Fifty percent (50%)** of the salary of a first class patrolman, **for amounts paid after December 31, 2002.**

(2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of **the following:**

(A) ~~thirty~~ **The following percentage of the monthly pay of a first class patrolman:**

(i) **Thirty-five percent (30%) (35%)** of the monthly pay of a first class patrolman, **or for amounts paid after December 31, 1999, and before January 1, 2001.**

(ii) **Forty percent (40%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2000, and before January 1, 2002.**

(iii) **Forty-five percent (45%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2001, and before January 1, 2003.**

(iv) **Fifty percent (50%)** of the monthly pay of a first class patrolman, **for amounts paid after December 31, 2002.**

(B) **Fifty-five percent (55%)** of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause (B) the member's benefit shall be considered to be fifty percent (50%) of the monthly



1 salary of a first class patrolman. The amount provided for in this
2 subdivision is subject to adjustment as provided in subsection (g).

3 SECTION 4. [EFFECTIVE JANUARY 1, 2000] **IC 36-8-6-9.8,**
4 **IC 36-8-7-12.1, and IC 36-8-7.5-13.8, all as amended by this act,**
5 **apply only to benefits payable after December 31, 1999.**

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 67 and that Senator Server be substituted therefor.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 67, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Pensions and Labor.

(Reference is to SB 67 as introduced.)

GARTON, Chairperson

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